

UNITED STATES COURT OF APPEALS for the NINTH CIRCUIT
Office of the Clerk
General Information
COUNSELED IMMIGRATION CASES
(July 2006)

The Clerk's Office

1. Main Office - San Francisco

Mailing Address (U.S. Postal Service)	Overnight Delivery (FedEx, DHL, UPS etc)	Location (Street Address)
Office of the Clerk James R. Browning Courthouse U.S. Court of Appeals P.O. Box 193939 San Francisco, CA 94119-3939	Office of the Clerk James R. Browning Courthouse U.S. Court of Appeals 95 Seventh Street San Francisco, CA 94103-1526	Office of the Clerk James R. Browning Courthouse U.S. Court of Appeals 95 Seventh Street San Francisco, CA 94103

2. Website

The Court's website at www.ca9.uscourts.gov is a tremendous resource. On it, you will find copies of the Court's Rules and General Orders, answers to Frequently Asked Questions, directions to the Courthouses, forms necessary to gain admission to the Bar of this Court, and an invitation to join our Pro Bono Program. You will also find links to practice manuals as well as this Court's Dispositions and recordings of oral arguments.

3. Phone Numbers

General Information	(415) 556-9800
Appellate Commissioner	556-6220

Attorney Admissions	556-9373
Calendar Unit	556-9780
Circuit Executive	(415) 556-2000
Circuit Mediators	556-9900
Computer Operations	556-9700
Divisional Offices:	
Pasadena	(626) 229-7250
Portland	(503) 833-5300
Seattle	(206)553-2937
Docketing - Civil	(415) 556-9730
Docketing - Criminal/Agency	556-9740
Extensions of Time/Briefs:	
Written Motions	556-9760
14 day Telephone Extension	556-9768
Judicial Misconduct	556-9692
Library	556-9500
Motions Attorneys	556-9890
Operations Assistants (CJA)	556-9771
Procedural Motions	556-9760
Pro Se Unit	556-9380
Records Unit	556-9920
Tours	556-9945

4. Authorities and Resources

- ❑ Rules of Practice - The Federal Rules of Appellate Procedure (Fed. R. App. P.) together with the Ninth Circuit Rules of Practice (9th Cir. R.) govern practice before this court. Copies of the rules are available on this court's website at www.ca9.uscourts.gov and from the Clerk's offices in San Francisco, Pasadena and Seattle. Send a written request together with a self-addressed return mailing label.
- ❑ Other Information - The court's *Immigration outline* provides a comprehensive discussion of applicable law. It can be found on this court's website, www.ca9.uscourts.gov . The American Immigration Law Foundation has published *A Practice Advisory on How to File Petitions for Review* (September 2003) and it too is (with their permission) available on this court's website or at www.aifl.org. Finally, the court has prepared a practice videotape which is available through the Clerk's office in San Francisco for \$15.00. Continuing legal education credit for viewing this videotape is available in most jurisdictions.

5. Admission to the Bar of the Ninth Circuit

- ❑ All attorneys practicing before the Court must be admitted to the Bar of the Ninth Circuit. Fed. R. App. P. 46(a) and 9th Cir. R. 46-1.2.
- ❑ If you are NOT already admitted, obtain a form from our website or by calling the number listed above and submit a notarized form to the Clerk's Office in San Francisco together with the admission fee of \$190.00. The check should be made payable to Clerk, United States Court of Appeals. After your application is processed, you will be mailed a certificate of admission.

6. Notices of Change of Address

- ❑ Counsel must inform this Court in writing of any address change. 9th Cir. R. 46-3.
- ❑ The Notice must include the following information:
 - ✓ the case caption;
 - ✓ the U.S. Court of Appeals docket number;
 - ✓ any new telephone number and/or email address;
 - ✓ the name of the party you represent, and

- ✓ the new street address.
- ☐ If you are admitted to the Bar of this Court but do not represent any parties at the time your address changes, you do NOT need to submit an address change.

6. Payment of Fee

- ☐ The \$450.00 filing fee or a motion to proceed in forma pauperis shall accompany the petition for review. 9th Cir. R. 3-1.
- ☐ A motion to proceed in forma pauperis must be supported by the affidavit of indigency found at Form 4 of the Federal Rules of Appellate Procedure.
- ☐ Failure to satisfy the fee requirement or apply to proceed without payment of fees will result in the petition's dismissal. 9th Cir. R. 42-1.

7. Motions Practice

A. General Information

Fed. R. App. P. 27 and 32(c)(1) and 9th Cir. R. 27 govern motions practice and specific types of relief. Some of the basic points include:

- ☐ A motion must inform the court whether (1) petitioner is in the custody of the Department of Homeland Security and/or (2) petitioner has moved the Board of Immigration Appeals to reopen its proceedings or adjust petitioner's status. 9th Cir. 27-8.2.
- ☐ Enclose an extra copy of the motion and a self-addressed stamped envelope if you are requesting a conformed copy for your files.
- ☐ Neither a notice of motion nor a proposed order is required. See Fed. R. App. P. 27(a)(2)(C)(ii), (iii).
- ☐ Motions may be supported by an affidavit or declaration. 28 U.S.C. §1746.
- ☐ A response to a motion is due 8 business days from the service of the motion. Fed. R. App. P. 27(a)(3)(A). The reply is due 5 business days from service of the response. Fed. R. App. P. 27(a)(4), see *also* Fed. R. App. P. 26(c).
- ☐ A response requesting affirmative relief and/or relief by a date certain

- must include that request in the caption. Fed. R. App. R. 27(a)(3)(B).
- ❑ A motion should provide the position of the opposing party. See Advisory Committee Note to Rule 27-1(5). See *also* 9th Cir. R. 31-2.2(b)(6)(statement regarding the position of opposing party or a statement about why that information is unavailable required in motions for extensions of time).
 - ❑ Facsimile or electronic filing is permitted only in urgent circumstances and only with advance authorization from staff. 9th Cir. R. 25-3.1.
 - ❑ Motions filed **after a case has been scheduled for oral argument, has been argued, is under submission or that has been decided by a panel**, must include the date of argument, submission or decision. If known, you must also include the names of the judges on the panel. 9th Cir. R. 25-4.

B. Emergency or Urgent Motions - Circuit Rule 27-3

- ★ **All** emergency and urgent motions must conform with the provisions of 9th Cir. R. 27-3. Motions requesting procedural relief do NOT fall within the types of matters contemplated by 9th Cir. R. 27-3.
- ★ **Prior to filing any emergency motion, the moving party MUST contact an attorney in the Motions Unit in San Francisco at (415) 556-9890.**
- ★ Emergency motions shall be filed in San Francisco. If action is needed on the same or next day, and counsel has not been dilatory in seeking relief, after speaking with the Motions attorney on duty, counsel may be directed to file the emergency motion in one of the divisional offices or, in some cases, with an individual circuit judge. On the other hand, if it appears that the motion can be processed by the monthly motions panel despite the expedited circumstances, counsel will be directed to file the motion in San Francisco.
- ★ When it is absolutely necessary to notify the court of an emergency requiring its attention outside of standard office hours, the movant shall call (415) 556-9895. This line is monitored by court staff. Keep in mind that this line is for true emergencies that cannot wait until the next business day, such as emergencies that

involve an imminent execution or removal from the United States.

C. Motions to Stay Removal/Deportation/Voluntary Departure

- ★ The filing of a motion to stay removal/deportation temporarily stays the order of removal/deportation until further order of this court. *Deleon v. INS*, 115 F.3d 643 (9th Cir. 1997); General Order 6.4(c)(1) (General Orders of the Ninth Circuit Court of Appeals).
- ★ Any such motion must discuss the merits of the petition and the specific hardships that petitioner will suffer if removed. *Abassi v. INS*, 143 F.3d 513 (9th Cir. 1998).
- ★ A motion for stay of removal filed within the time set for voluntary departure granted by the agency is deemed to include a request to stay the voluntary departure period and the temporary stay provisions of General Order 6.4(c) will apply to the voluntary departure request as well. *Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004).
- ★ If the motion is filed with the petition for review, the briefing schedule will be set upon this court's resolution of the motion. G.O. 6.4(c)(1).
- ★ If no such motion is filed with the petition for review, a briefing schedule will be set and there will be no stay in place.
- ★ A later filed motion vacates the existing briefing schedule.
- ★ The record is due 8 weeks (56 days) from the filing of the motion for a stay and the response to the motion is due 4 weeks (28 days) from the filing of the record.
- ★ If respondent fails to submit a response within the time set, the silence will be construed as a statement of non-opposition, a briefing schedule will be set and the stay will continue absent further order of the court. G.O.6.4(c)(1).
- ★ Any reply is due 5 days from service of the opposition.

D. Motions for Extensions of Time to File the Briefs

- ☐ The briefing schedule is based on the respondent filing the certified administrative record by the scheduled date. If the record is late, the court will revise the schedule. Accordingly, petitioner need not make a motion to adjust the schedule whenever the record is late.
- ☐ If no motion for stay is filed together with the petition for review, the court will issue a briefing schedule when it docket the petition.
- ☐ 9th Cir. R. 27-11 lists the impact of several other motions on the briefing schedule.
- ☐ Specific due dates set by the court are not subject to the additional 3-day service time described in Fed. R. App. P. 26(c).
- ☐ The filing of petitioner's brief before the due date does not advance the due date for respondent's brief. 9th Cir. R. 31-2.1.
- ☐ A party may seek ONE of the following:

- ★ Written Extension

- Requests for extensions of more than 14 days will be granted only upon a written motion supported by a showing of diligence and substantial need. This motion should be filed **at least seven calendar days before the due date for the brief**. The motion shall be accompanied by an affidavit or declaration that includes all of the information listed at 9th Cir. R. 31-2.2(b).

- This court will ordinarily make some adjustment to the schedule in response to a motion. See Circuit Advisory Note to Rule 31-2.2. The court expects that the brief will be filed within the requested period of time. *Id.*

- ★ Oral Extension

- If good cause is shown, the clerk may grant a SINGLE extension of no more than 14 days to file an opening, answering or reply brief. 9th Cir. R. 31-2.2(a). You may apply for such an extension by calling (415) 556-9768.

8. Contents of Briefs

- ☐ Briefs shall comply with the requirements of Fed. R. App. P. and 9th Cir. R. 28 and 32.
- ☐ Numerous briefs are available on Westlaw (the *Briefs Multibase* identifier is BRIEF-ALL). A keyword search will locate briefs addressing issues involved in your case. The Westlaw identifier for the “Federal Immigration Brief” database is FIM-Brief.
- ☐ A brief filed in a petition challenging an order of the Board of Immigration Appeals must tell the court whether (1) petitioner is in the custody of the Department of Homeland Security and/or (2) petitioner has moved the Board to reopen or has requested an adjustment of status. 9th Cir. R. 28-2.4(b).
- ☐ The briefs of petitioners challenging an order of the Board of Immigration Appeals need not be accompanied by excerpts of record. 9th Cir. R. 17-1.3(b).
- ☐ Pursuant to 9th Cir. R. 28-2.8, Petitioner shall append copies of the orders of the immigration court and BIA that are being challenged on appeal.

9. Mediation Program

- ☐ Immigrations appeals do not require a Civil Appeals Docketing Statement.
- ☐ From time to time, however, the court may direct the parties to confer with a court mediator.
- ☐ If you are interested in requesting a conference with a mediator, you may call the Mediation Unit at (415) 556-9900 or make a written request to the Chief Circuit Mediator. Requests for mediation will be kept confidential if so requested.

10. Court Calendars

- ☐ Hearing notices for oral argument calendars are distributed approximately four to five weeks before the date for argument. Generally, cases are heard in the administrative unit where they originate. The Court sits monthly in San Francisco, Pasadena and

Seattle. The court sits in Portland every other month, depending on caseload. The Court also hears argument twice a year in Honolulu and once a year in Anchorage.

- ❑ There will only be a change of date or location of oral argument for good cause. Any request to continue an argument date filed within 14 days of the hearing will ONLY be granted upon a showing of exceptional circumstances. 9th Cir. R. 34-2.
- ❑ Oral argument will be conducted in all cases UNLESS all members of the panel agree that the decisional process would not be significantly aided by oral argument. Fed. R. App. P. 34.